

SENATE BILL NO. 512

INTRODUCED BY KITZENBERG

A BILL FOR AN ACT ENTITLED: "AN ACT ENACTING A 4 PERCENT SALES TAX AND USE TAX; ALLOWING CERTAIN SALES TAX AND USE TAX EXEMPTIONS, INCLUDING UNPREPARED FOOD ITEMS, MEDICAL ITEMS, DRUGS, AND UTILITIES; PROVIDING FOR DISTRIBUTION OF SALES TAX AND USE TAX REVENUE; AUTHORIZING THE DEPARTMENT OF REVENUE TO ENTER INTO THE STREAMLINED SALES AND USE TAX AGREEMENT; IMPLEMENTING APPROPRIATE PROVISIONS OF THE STREAMLINED SALES AND USE TAX AGREEMENT; PROVIDING FOR A REFUNDABLE INCOME TAX CREDIT FOR LOW-INCOME TAXPAYERS; INCREASING THE PROPERTY TAX RATES ON CLASS 9 AND 13 PROPERTY; ELIMINATING THE 95 MILLS LEVIED STATEWIDE FOR PUBLIC EDUCATION; ELIMINATING THE 6 MILLS LEVIED STATEWIDE FOR UNIVERSITY FUNDING; AMENDING SECTIONS 15-1-111, 15-1-112, 15-1-501, 15-6-141, 15-6-156, 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-36-331, 15-68-101, 15-68-102, 15-68-110, 15-68-201, 15-68-202, 15-68-206, 15-68-207, 15-68-401, 15-68-402, 15-68-405, 15-68-501, 15-68-502, 15-68-505, 15-68-510, 15-68-801, 15-68-820, ~~17-3-213, 20-5-323, 20-5-324, 20-6-702, 20-7-102, 20-9-212, 20-9-306, 20-9-307, 20-9-308~~, 20-9-331, 20-9-333, ~~20-9-347, 20-9-361~~, 90-6-304, 90-6-305, 90-6-309, AND 90-6-403, MCA; REPEALING SECTIONS 15-10-107, 20-9-360, AND 20-25-423, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-111, MCA, is amended to read:

"15-1-111. (Temporary) Reimbursement to local governments and schools -- duties of department and county treasurer -- statutory appropriation. (1) Prior to September 1, 1990, the department's agent in the county shall supply the following information to the department for each taxing jurisdiction within the county:

- (a) the number of mills levied in the jurisdiction for tax year 1989;
- (b) the number of mills levied in the jurisdiction for tax year 1990;
- (c) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all personal property not secured by real property; and
- (d) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all

personal property secured by real property.

(2) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property tax rates set forth in 15-6-138, prior to 1994, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145, prior to 1994. The department shall total the amounts for all taxing jurisdictions within the county.

(3) (a) The department shall remit to the county treasurer 50% of the amount of revenue reimbursable, determined pursuant to subsection (1), on or before November 30 and the remaining 50% on or before May 31.

(b) For tax year 1993 through tax year 1998, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, as adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.

(c) (i) For tax year 1999 through tax year 2008, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, progressively reduced by 10% of the 1991 amount each year, in accordance with the following schedule:

Tax Year	Percentage of 1991 Remittance Amount
1999	90
2000	80
2001	70
2002	60
2003	50
2004	40
2005	30
2006	20
2007	10
2008 and following years	0

(ii) The amount remitted must be adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.

(4) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(5) (a) For the purposes of this section and subject to subsection (7), "taxing jurisdiction" means a jurisdiction levying mills against personal property and includes but is not limited to a county, city, school district, tax increment financing district, and miscellaneous taxing district.

(b) The term does not include ~~county or state school equalization levies provided for in 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and the vocational-technical education levy provided for in 20-25-439.~~

(6) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse eligible taxing jurisdictions for reductions in tax rates on personal property.

(7) The following apply to taxing jurisdictions that were altered after tax year 1989:

(a) A taxing jurisdiction that existed in tax year 1989 and that no longer exists is not entitled to reimbursement under this section.

(b) A taxing jurisdiction that existed in tax year 1989 and that is split into two or more taxing jurisdictions or that is annexed to or is consolidated with another taxing jurisdiction is entitled to reimbursement based on the portion of 1989 taxable value within each new taxing jurisdiction. The department shall determine the portion of 1989 taxable value located in each taxing jurisdiction.

(c) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under this section unless the jurisdiction was created as described in subsection (7)(b). (Repealed effective July 1, 2008--secs. 66(2), 68(2), Ch. 422, L. 1997.)"

Section 2. Section 15-1-112, MCA, is amended to read:

"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing jurisdictions. (1) ~~On or before January 1, 1996, for the reduction in payment under subsection (4) and by June 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the~~ The department shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 as provided in Chapter 570, Laws of 1995. ~~and provide that information to each county treasurer.~~ The reimbursement amount must be determined for each local government taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However, the reimbursement does not apply to property described in ~~15-6-138 that has a reduced tax rate under 15-24-1402~~ county based upon reimbursement amounts for tax year

1 1999 for distribution by the county as provided in subsection (2). The annual amount must be appropriated from
2 the special revenue account for the collection of sales tax and use tax provided in 15-68-820.

3 ~~(2) (a) The reimbursement amount to be used as the basis for the payment reduction under subsection~~
4 ~~(4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local~~
5 ~~government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.~~

6 ~~—— (b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the~~
7 ~~amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in~~
8 ~~15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for~~
9 ~~property described in 15-6-138 in the same jurisdiction.~~

10 ~~—— (ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular~~
11 ~~jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax~~
12 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
13 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
14 ~~jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of~~
15 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
16 ~~simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

17 ~~—— (c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the~~
18 ~~amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property~~
19 ~~described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995~~
20 ~~market value for property described in 15-6-138 in the same jurisdiction.~~

21 ~~—— (ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular~~
22 ~~jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax~~
23 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
24 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
25 ~~jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of~~
26 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
27 ~~simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

28 ~~—— (d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the~~
29 ~~amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property~~
30 ~~described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995~~

1 ~~market value for property described in 15-6-138 in the same jurisdiction.~~

2 ~~——— (ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular~~
3 ~~jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax~~
4 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
5 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
6 ~~jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of~~
7 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
8 ~~simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

9 ~~——— (3) (a) For purposes of this section, "local government taxing jurisdiction" means a local government~~
10 ~~rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county~~
11 ~~governments, incorporated city and town governments, consolidated county and city governments, tax increment~~
12 ~~financing districts, local elementary and high school districts, local community college districts, miscellaneous~~
13 ~~districts, and special districts. The term includes countywide mills levied for equalization of school retirement or~~
14 ~~transportation.~~

15 ~~——— (b) The term does not include county or state school equalization levies provided for in 20-9-331,~~
16 ~~20-9-333, 20-9-360, and 20-25-439.~~

17 ~~——— (c) Each tax increment financing district must receive the benefit of the state mill on the incremental~~
18 ~~taxable value of the district.~~

19 ~~——— (4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
20 ~~in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a)~~
21 ~~for all of the local government taxing jurisdictions in the county.~~

22 ~~——— (5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
23 ~~in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the~~
24 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

25 ~~——— (6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
26 ~~in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local~~
27 ~~government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for~~
28 ~~tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department~~
29 ~~under subsection (2).~~

30 ~~——— (7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~

in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):

~~(8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(13)(2)~~ (a) The reimbursement amount for tax year ~~1999~~ 2005 and each subsequent tax year for 9 years must be progressively reduced each year by 10% of the reimbursement amount for tax year 1998, according to the following schedule:

Tax Year	Percentage of 1998 Reimbursement Amount
1999	90
2000	80
2001	70
2002	60

1	2003	50
2	2004	40
3	2005	30
4	2006	20
5	2007	10
6	2008 and following years	0

(b) ~~The Of the reimbursement amount, for each tax year must be the basis for reducing the amount~~
~~remitted to the state for the levy imposed under 20-9-360 31% must be distributed~~ in December of the same tax
year and 69% must be distributed in June of the following year.

~~(14)(3)~~ The county treasurer shall use the funds ~~from the reduced payment to the state for the levy~~
~~imposed under 20-9-360~~ to reimburse each local government taxing jurisdiction in the amount determined by
the department ~~under subsection (2)~~. The reimbursement must be distributed to funds within local government
taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The
reimbursement in June must be distributed based on the prior year's mill levy, and the reimbursement in
December must be based on the current year's mill levy.

~~(15)(4)~~ Each local government taxing jurisdiction receiving reimbursements shall consider the amount
of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the
amount that would otherwise have to be raised by the mill levy.

~~(16)(5)~~ A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer
be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created
after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government
taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is
annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the
revenue loss and reimbursement is attributed to the new jurisdictions."

Section 3. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) Except as
provided in subsection (5), the state treasurer shall deposit to the credit of the state general fund in accordance
with the provisions of subsection (3) all money received from the collection of:

(a) income taxes, interest, and penalties collected under chapter 30;

- (b) except as provided in 15-31-121, all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes distributed to the general fund under 15-36-331;
- (d) electrical energy producer's license taxes under chapter 51;
- (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;
- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; ~~and~~
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803; and
- (j) sales tax and use tax collections in excess of the specific allocations as provided in 15-68-820.
- (2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under Title 16, chapters 1 through 4 and 6.
- (3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.
- (4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.
- (5) The administrative assessment provided for in 15-1-141 must be deposited in an account in the state special revenue fund to the credit of the department."

Section 4. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class nine property -- description -- taxable percentage. (1) Class nine property includes:

- (a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created

1 by the congress to transmit or distribute electrical energy produced at privately owned generating facilities, not
2 including rural electric cooperatives. However, rural electric cooperatives' property used for the sole purpose of
3 serving customers representing less than 95% of the electric consumers located within the incorporated limits
4 of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns
5 property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly
6 served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative
7 is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a
8 headquarters, office, shop, or other similar facility.

9 (b) allocations for centrally assessed natural gas companies having a major distribution system in this
10 state; and

11 (c) centrally assessed companies' allocations except:

12 (i) electrical generation facilities included in class thirteen;

13 (ii) property owned by cooperative rural electric and cooperative rural telephone associations and
14 classified in class five;

15 (iii) property owned by organizations providing telephone communications to rural areas and classified
16 in class five;

17 (iv) railroad transportation property included in class twelve;

18 (v) airline transportation property included in class twelve; and

19 (vi) telecommunications property included in class thirteen.

20 (2) Class nine property is taxed at ~~42%~~ 14.6% of market value."

21
22 **Section 5.** Section 15-6-156, MCA, is amended to read:

23 **"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in
24 subsections (2)(a) through (2)(g), class thirteen property includes:

25 (a) electrical generation facilities of a centrally assessed electric power company;

26 (b) electrical generation facilities owned or operated by an exempt wholesale generator or an entity
27 certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of
28 1935, 15 U.S.C. 79z-5a;

29 (c) noncentrally assessed electrical generation facilities owned or operated by any electrical energy
30 producer; and

(d) allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137;

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified in class five;

(f) property owned by organizations providing telecommunications services and classified in class five;

and

(g) generation facilities that are exempt under 15-6-225.

(3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(b) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(c) The term also does not include a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-6-138.

(4) Class thirteen property is taxed at ~~6%~~ 7.3% of its market value."

Section 6. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property,

1 plus one-half of the average rate of inflation for the prior 3 years.

2 (b) A governmental entity that does not impose the maximum number of mills authorized under
3 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
4 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill
5 authority carried forward may be imposed in a subsequent tax year.

6 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate
7 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
8 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

9 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
10 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including
11 newly taxable property.

12 (3) For purposes of this section, newly taxable property includes:

13 (a) annexation of real property and improvements into a taxing unit;

14 (b) construction, expansion, or remodeling of improvements;

15 (c) transfer of property into a taxing unit;

16 (d) subdivision of real property; and

17 (e) transfer of property from tax-exempt to taxable status.

18 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
19 release of taxable value from the incremental taxable value of a tax increment financing district because of:

20 (i) a change in the boundary of a tax increment financing district;

21 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

22 (iii) the termination of a tax increment financing district.

23 (b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real
24 property that results in the property being taxable as class four property or as nonagricultural land as described
25 in 15-6-133(1)(c).

26 (c) For the purposes of this section, newly taxable property does not include an increase in appraised
27 value of land that was previously valued at 75% of the value of improvements on the land, as provided in
28 15-7-111(4) and (5), as those subsections applied on December 31, 2001.

29 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

30 (a) school district levies established in Title 20; or

(b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of ~~15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439~~. However, the number of mills calculated by the department may not exceed the mill levy ~~limits~~ limit established in ~~those sections~~ that section. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."

Section 7. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment -- notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to 15-10-420, each succeeding year ~~thereafter~~, the percentage must be increased by

1 equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must
2 be taxed at 100% of its taxable value.

3 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body
4 of the affected county or the incorporated city or town must have approved by separate resolution for each
5 project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for
6 in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until
7 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

8 (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but
9 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

10 (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
11 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The
12 resolution may provide that real property other than land, personal property, improvements, or any combination
13 ~~thereof of land, personal property, or improvements~~ is eligible for the tax benefits described in subsection (1).

14 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The
15 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
16 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for
17 the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body
18 of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

19 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
20 for local high school district and elementary school district purposes and to the number of mills levied and
21 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
22 benefit described in subsection (1) may not apply to levies or assessments ~~required under Title 15, chapter 10,~~
23 ~~20-9-331, 20-9-333, or 20-9-360 or otherwise~~ required under state law.

24 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
25 all taxing jurisdictions affected by the tax benefit."
26

27 **Section 8.** Section 15-24-1703, MCA, is amended to read:

28 **"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of
29 delinquent property taxes pursuant to this part:

30 (1) applies to all mills levied in the county or otherwise required under state law, ~~including levies or~~

1 ~~assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, and 20-25-423;~~

2 (2) does not apply to assessments made against property for the payment of bonds issued pursuant
3 to Title 7, chapter 12."

4
5 **Section 9.** Section 15-24-1802, MCA, is amended to read:

6 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
7 leased and operated by a local economic development organization is eligible for an exemption from property
8 taxes as provided in this section.

9 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
10 consolidated government, incorporated city or town, or school district in which the property is located shall
11 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
12 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is
13 approved, the governing body shall do so by a separate resolution for each business incubator in its respective
14 jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's
15 taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property
16 taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding
17 the hearing, the governing body shall determine that the local economic development organization:

18 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation
19 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

20 (b) is engaged in economic development and business assistance work in the area; and

21 (c) owns or leases and operates or will operate the business incubator.

22 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
23 shall make the assessment change for the tax exemption provided for in this section.

24 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
25 assessed by the governing body approving the exemption over which the governing body has sole discretion.
26 If the governing body of a county, consolidated government, or incorporated city or town approves the
27 exemption, the exemption applies to levies and assessments ~~required under Title 15, chapter 10, 20-9-331, or~~
28 ~~20-9-333 or otherwise~~ required under state law."

29
30 **Section 10.** Section 15-24-1902, MCA, is amended to read:

1 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
2 and operated by a local economic development organization or a port authority is eligible for an exemption from
3 property taxes as provided in this section.

4 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
5 consolidated government, incorporated city or town, or school district in which the property is located shall
6 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
7 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is
8 approved, the governing body shall do so by a separate resolution for each industrial park in its respective
9 jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes
10 have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the
11 governing body shall determine that:

12 (a) the local economic development organization:

13 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation
14 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

15 (ii) is engaged in economic development and business assistance work in the area; and

16 (iii) owns and operates or will own and operate the industrial development park; or

17 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

18 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
19 shall make the assessment change for the tax exemption provided for in this section.

20 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
21 assessed by the governing body approving the exemption over which the governing body has sole discretion.
22 If the governing body of a county, consolidated government, or incorporated city or town approves the
23 exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or
24 ~~20-9-333 or otherwise required~~ under state law.

25 (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt
26 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
27 state, or local government, the tax exemption provided in this section terminates. The termination of the
28 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of
29 the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203."

30

1 **Section 11.** Section 15-24-2002, MCA, is amended to read:

2 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
3 owned by a local economic development organization that the local economic development organization intends
4 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
5 taxes as provided in this section.

6 (2) In order to qualify for the tax exemption described in this section, the governing body of the affected
7 county, consolidated government, incorporated city or town, or school district in which the building and land are
8 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing.
9 The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing
10 body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for
11 the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not
12 preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic
13 development organization:

14 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
15 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

16 (b) is engaged in economic development and business assistance work in the area; and

17 (c) owns or will own the building and land.

18 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
19 shall make the assessment change for the tax exemption provided for in this section.

20 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
21 assessed by the governing body approving the exemption over which the governing body has sole discretion.
22 If the governing body of a county, consolidated government, or incorporated city or town approves the
23 exemption, the exemption applies to levies or assessments required under ~~Title 15, chapter 10, 20-9-331, or~~
24 ~~20-9-333 and other levies required under~~ state law.

25 (5) When a local economic development organization sells, leases, or otherwise disposes of the exempt
26 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
27 state, or local government, the tax exemption provided in this section terminates. The termination of the
28 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of
29 the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203."

NEW SECTION. Section 12. Low-income tax credit. (1) An eligible individual is allowed a tax credit against the taxes imposed by 15-30-103. The amount of the credit under this section is equal to 2% of the individual's gross income.

(2) (a) To be eligible for the credit under this section, the adjusted gross income of a single person must be \$14,000 or less and for a married couple or head of household, the adjusted gross income must be \$28,000 or less. The income levels must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount in this subsection (2)(a) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 2005; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(3) A nonresident or a resident for part of a year shall determine adjusted gross income as if the nonresident or part-time resident was a resident during the entire tax year.

Section 13. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(3) (a) For ~~tax year 2003 and succeeding each tax years year~~, the amount of oil and natural gas production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the following schedule:

2003	2004	2005	2006 and
------	------	------	----------

1				succeeding
2				tax years
3	Big Horn	45.03% — 45.04%	45.04%	45.05%
4	Blaine	57.56% — 57.84%	58.11%	58.39%
5	Carbon	50.24% — 49.59%	48.93%	48.27%
6	Chouteau	56.67% — 57.16%	57.65%	58.14%
7	Custer	103.63% — 92.27%	80.9%	69.53%
8	Daniels	48.31% — 49.15%	49.98%	50.81%
9	Dawson	56.32% — 53.48%	50.64%	47.79%
10	Fallon	39.89% — 40.52%	41.15%	41.78%
11	Fergus	112.2% — 97.86%	83.52%	69.18%
12	Garfield	54.51% — 51.66%	48.81%	45.96%
13	Glacier	76.56% — 70.65%	64.74%	58.83%
14	Golden Valley	55.5% — 56.45%	57.41%	58.37%
15	Hill	66.97% — 66.15%	65.33%	64.51%
16	Liberty	63.32% — 61.53%	59.73%	57.94%
17	McCone	58.75% — 55.81%	52.86%	49.92%
18	Musselshell	57.06% — 54.25%	51.44%	48.64%
19	Petroleum	67.8% — 61.21%	54.62%	48.04%
20	Phillips	53.3% — 53.54%	53.78%	54.02%
21	Pondera	104.14% — 87.51%	70.89%	54.26%
22	Powder River	64.7% — 63.44%	62.17%	60.9%
23	Prairie	38.43% — 39.08%	39.73%	40.38%
24	Richland	45.23% — 45.97%	46.72%	47.47%
25	Roosevelt	46.75% — 46.4%	46.06%	45.71%
26	Rosebud	37.41% — 38.05%	38.69%	39.33%
27	Sheridan	46.64% — 47.09%	47.54%	47.99%
28	Stillwater	56.05% — 55.2%	54.35%	53.51%
29	Sweet Grass	58.23% — 59.24%	60.24%	61.24%
30	Teton	53.01% — 50.71%	48.4%	46.1%

1	Toole	56.2% ———— 56.67%	57.14%	57.61%
2	Valley	59.82% ———— 57.02%	54.22%	51.43%
3	Wibaux	47.71% ———— 48.19%	48.68%	49.16%
4	Yellowstone	50.69% ———— 49.37%	48.06%	46.74%
5	All other counties	50.15% ———— 50.15%	50.15%	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

~~(a) for the fiscal year ending June 30, 2003, to be distributed as follows:~~

~~———— (i) a total of \$400,000 to the coal bed methane protection account established in 76-15-904; and~~

~~———— (ii) all remaining proceeds to the state general fund;~~

~~(b)(a) for the each fiscal year beginning July 1, 2003, through the fiscal year ending June 30, 2011, to be distributed as follows:~~

~~(i) 1.23% to the coal bed methane protection account established in 76-15-904;~~

~~(ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;~~

~~(iii) 2.95% to the orphan share account established in 75-10-743; and~~

~~(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and~~

~~(v)(iv) all remaining proceeds to the state general fund;~~

~~(e)(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:~~

~~(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;~~

~~(ii) 2.95% to the orphan share account established in 75-10-743; and~~

~~(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and~~

~~(iv)(iii) all remaining proceeds to the state general fund."~~

Section 14. Section 15-68-101, MCA, is amended to read:

"15-68-101. Definitions. For purposes of this chapter, unless the context requires otherwise, the

following definitions apply:

(1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

(b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

~~(2) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or event.~~

~~———— (b) The term does not include payment for admittance to a movie theater or to a sporting event sanctioned by a school district, college, or university.~~

(2) "Agreement" means the Streamlined Sales and Use Tax Agreement provided for under [sections 46 through 53].

(3) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 1/2 of 1% or more of alcohol by volume.

~~(3)~~(4) (a) "Base rental charge" means the following:

(i) charges for time of use of the rental vehicle and mileage, if applicable;

(ii) charges accepted by the renter for personal accident insurance;

(iii) charges for additional drivers or underage drivers; and

(iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the rental vehicle.

(b) The term does not include:

(i) rental vehicle price discounts allowed and taken;

(ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the privilege of operating as a concessionaire at an airport terminal building;

(iii) motor fuel;

(iv) intercity rental vehicle drop charges; or

(v) taxes imposed by the federal government or by state or local governments.

~~(4)(5)~~ (a) "Campground" means a place used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(6) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.

(b) The term does not include any preparation that contains flour and that requires refrigeration.

(7) "Certified automated system" has the meaning provided in [section 47].

(8) "Certified service provider" has the meaning provided in [section 47].

(9) "Computer" means an electronic device that accepts information in a digital or similar form and manipulates it for a result based on a sequence of instructions.

(10) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(11) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(12) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(a) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in subsections (12)(a)(i) through (12)(a)(v);

(b) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole

1 item of a meal or of the diet; and

2 (c) is required to be labeled as a dietary supplement, identifiable by the "supplemental facts" box found
3 on the label and as required pursuant to 21 CFR 101.36.

4 (13) "Drug" means a compound, substance, or preparation and any component of a compound,
5 substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

6 (a) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
7 United States, or official National Formulary and any supplement to them;

8 (b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

9 (c) intended to affect the structure or any function of the body.

10 (14) (a) "Durable medical equipment" means equipment, including repair and replacement parts for
11 equipment, that:

12 (i) can withstand repeated use;

13 (ii) is primarily and customarily used to serve a medical purpose;

14 (iii) generally is not useful to a person in the absence of illness or injury; and

15 (iv) is not worn in or on the body.

16 (b) The term does not include mobility-enhancing equipment.

17 (15) "Electronic" means technology that relates to having electrical, digital, magnetic, wireless, optical,
18 electromagnetic, or similar capabilities.

19 ~~(5)~~(16) "Engaging in business" means carrying on or causing to be carried on any activity with the
20 purpose of receiving direct or indirect benefit.

21 (17) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen,
22 dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste
23 or nutritional value.

24 (b) The term does not include alcoholic beverages, candy, dietary supplements, soft drinks, or tobacco.

25 (18) "Food sold through vending machines" means food dispensed from a machine or other mechanical
26 device that accepts payment.

27 (19) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste,
28 mouthwash, antiperspirants, and suntan lotions and sunscreens, regardless of whether the items meet the
29 definition of over-the-counter drugs.

30 ~~(6)~~(20) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal

property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property, as defined in 26 U.S.C. 7701(h)(1).

(c) The term does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of \$100 or 1% of the total required payments; or

(iii) providing tangible personal property with an operator if an operator is necessary for the equipment to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

(d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

(e) This definition must be applied only prospectively from the date of adoption and has no retroactive impact on existing leases or rentals.

(21) "Maintaining an office or other place of business" means:

(a) a person having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or place of business; or

(b) an agent operating within this state under the authority of the person or its subsidiary, whether the place of business or agent is located within the state permanently or temporarily or whether or not the person or its subsidiary is authorized to do business within this state.

(22) (a) "Manufacturing" means combining or processing components or materials, including the processing of ores in a mill, smelter, refinery, or reduction facility, to increase their value for sale in the ordinary course of business.

(b) The term does not include construction.

(23) (a) "Mobility-enhancing equipment" means equipment, including repair and replacement parts, that:

(i) is primarily and customarily used to provide or increase the ability to move from one place to another

1 and that is appropriate for use either in a home or in a motor vehicle;

2 (ii) is not generally used by persons with normal mobility; and

3 (iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor
4 vehicle manufacturer.

5 (b) The term does not include durable medical equipment.

6 ~~(7)(24)~~ (a) "Motor vehicle" means a light vehicle as defined in 61-1-139, a motorcycle as defined in
7 61-1-105, a motor-driven cycle as defined in 61-1-106, a quadricycle as defined in 61-1-133, a motorboat or a
8 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

9 (i) is rented for a period of not more than 30 days;

10 (ii) is rented without a driver, pilot, or operator; and

11 (iii) is designed to transport 15 or fewer passengers.

12 (b) Motor vehicle includes:

13 (i) a rental vehicle rented pursuant to a contract for insurance; and

14 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented
15 without a driver, and that is used in the transportation of personal property.

16 (c) The term does not include farm vehicles, machinery, or equipment.

17 (25) (a) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug,
18 as required by 21 CFR 201.66.

19 (b) An over-the-counter drug label includes:

20 (i) a drug facts panel; or

21 (ii) a statement of the active ingredients with a list of those ingredients contained in the compound,
22 substance, or preparation.

23 (c) The term does not include grooming and hygiene products.

24 ~~(8) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.~~

25 ~~(9)(26)~~ "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
26 company, limited liability partnership, or any other legal entity.

27 (27) (a) "Prepared food" means:

28 (i) food sold in a heated state or heated by the seller;

29 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

30 (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses,

cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

(b) The term does not include food that is only cut, repackaged, or pasteurized by the seller and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as recommended by the United States food and drug administration in chapter 3, part 401.11, of its Food Code, so as to prevent food-borne illnesses.

(28) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a licensed practitioner as authorized by the laws of Montana.

(29) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts, worn on or in the body to:

(a) artificially replace a missing portion of the body;

(b) prevent or correct a physical deformity or malfunction; or

(c) support a weak or deformed portion of the body.

~~(10)~~(30) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(31) "Registration" or "seller's registration" means a seller's registration as described in 15-68-401.

~~(11)~~(32) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of the motor vehicle through an arrangement and for consideration.

~~(12)~~(33) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

~~(13)~~(34) "Sale" or "selling" means the transfer of property for consideration or the performance of a service for consideration.

~~(14)~~(35) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the following:

(i) the seller's cost of the property sold;

(ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

1 (iv) delivery charges;

2 (v) installation charges;

3 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
4 property have been bundled together and sold by the seller as a single product or piece of merchandise; and

5 (vii) credit for any trade-in.

6 (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (35)(a)(iii) through ~~(14)(a)(vii)~~
7 (35)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar
8 document given to the purchaser.

9 (c) The term does not include:

10 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed
11 by a seller and taken by a purchaser on a sale;

12 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or
13 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
14 or

15 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
16 sale, or similar document given to the purchaser.

17 (d) In an exchange in which the money or other consideration received does not represent the value
18 of the property or service exchanged, sales price means the reasonable value of the property or service
19 exchanged.

20 (e) When the sale of property or services is made under any type of charge or conditional or time-sales
21 contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price,
22 excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

23 ~~(45)(36)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

24 ~~(46)(37)~~ "Seller" means a person that makes sales, leases, or rentals of personal property or services.

25 ~~(47)(38)~~ (a) "Service" means an activity that is engaged in for another person for consideration and that
26 is distinguished from the sale or lease of property. Service includes activities performed by a person for its
27 members or shareholders.

28 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of the
29 contracting parties is irrelevant.

30 (39) (a) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners.

(b) The term does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

(40) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and computer software.

(41) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

~~(18)~~(42) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use solely outside this state, in the ordinary course of business."

Section 15. Section 15-68-102, MCA, is amended to read:

"15-68-102. Imposition and rate of sales tax and use tax -- exceptions. (1) A sales tax of the following percentages is imposed on sales of the following property or services:

(a) 4% on all sales of tangible personal property;

~~(a)~~(b) 3% on accommodations and campgrounds;

~~(b)~~(c) 4% on the base rental charge for rental vehicles.

(2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be applied to the sales price.

(3) (a) For the privilege of using property or services within this state, there is imposed on the person using the following property or services a use tax equal to the following percentages of the value of the property or services:

(i) 4% on all sales of tangible personal property;

~~(i)~~(ii) 3% on accommodations and campgrounds;

~~(ii)~~(iii) 4% on the base rental charge for rental vehicles.

(b) The use tax is imposed on property or services that were:

(i) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state;

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an

1 Indian reservation within this state;

2 (iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by
3 subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's
4 subsequent use of the property, is subject to the sales tax or use tax; or

5 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that
6 because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

7 (4) For purposes of this section, the value of property must be determined as of the time of acquisition,
8 introduction into this state, or conversion to use, whichever is latest.

9 (5) The sale or use of property or services exempt or nontaxable under this chapter is exempt from the
10 tax imposed in subsections (1) and (3).

11 ~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and~~
12 ~~(3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed~~
13 ~~charge for accommodations or campgrounds."~~

14
15 **NEW SECTION.** **Section 16. Credit -- out-of-state taxes.** If a sales tax, use tax, or similar tax has
16 been levied by another state or a political subdivision of another state on property that was bought outside this
17 state but that will be used or consumed within this state and the tax was paid by the current user, the amount
18 of tax paid may be credited against any use tax due this state on the same property. The credit may not exceed
19 the sales tax or use tax due this state.

20
21 **Section 17.** Section 15-68-110, MCA, is amended to read:

22 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**
23 **severability.** (1) Except when the purchaser has a direct payment permit as provided in [section 18], a person
24 engaging in the business of selling property or services subject to taxation under this chapter shall collect the
25 sales tax from the purchaser and pay the sales tax collected to the department.

26 (2) (a) A person that solicits or exploits the consumer market within this state by regularly and
27 systematically performing an activity within this state and whose sales are not subject to the sales tax shall
28 collect the use tax from the purchaser and pay the use tax collected to the department.

29 (b) "Activity", for the purposes of this section, includes but is not limited to engaging in any of the
30 following within this state:

1 (i) maintaining an office or other place of business that solicits orders through employees or
2 independent contractors;

3 (ii) canvassing;

4 (iii) demonstrating;

5 (iv) collecting money;

6 (v) warehousing or storing merchandise;

7 (vi) delivering or distributing products as a consequence of an advertising or other sales program
8 directed at potential customers;

9 (vii) to the extent permitted by federal law, soliciting orders for property by means of telecommunications
10 or a television shopping system or by providing telecommunications services that use toll or toll-free numbers
11 and that are intended to be broadcast by cable television or other means to consumers within this state;

12 (viii) soliciting orders, pursuant to a contract with a broadcaster or publisher located within this state, for
13 property by means of advertising disseminated primarily to consumers located within this state and only
14 secondarily to bordering jurisdictions;

15 (ix) soliciting orders for property by mail through the distribution of catalogs, periodicals, advertising
16 flyers, or other advertising;

17 (x) soliciting orders, pursuant to a contract with a cable television operator located within this state, for
18 tangible personal property by means of advertising transmitted or distributed over a cable television system
19 within this state; or

20 (xi) participating in an act that benefits from banking, financing, debt collection, telecommunications, or
21 marketing activities occurring within this state or that benefits from the location within this state of authorized
22 installation, servicing, or repair facilities.

23 (3) Multistate registration pursuant to the agreement may not be used as a factor to determine whether
24 the person is conducting an activity within the state subjecting the person to the sales tax or use tax.

25 ~~(2)~~(4) A person engaging in business within this state shall, before making any sales subject to this
26 chapter, ~~obtain a seller's permit~~ register as a seller, as provided in 15-68-401, and at the time of making a sale,
27 whether within or outside the state, collect the sales tax imposed by 15-68-102 from the purchaser and give to
28 the purchaser a receipt, in the manner and form prescribed by rule, for the sales tax paid.

29 ~~(3)~~(5) The department may authorize the collection of the sales tax imposed by 15-68-102 by any
30 retailer who does not maintain a place of business within this state but who, to the satisfaction of the department,

1 is in compliance with the law. When authorized, the person shall collect the use tax upon all property and
2 services that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

3 ~~(4)~~(6) All sales tax and use tax required to be collected and all sales tax and use tax collected by any
4 person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and
5 use tax.

6 ~~(5)~~(7) A person engaging in business within this state that is subject to this chapter shall provide to the
7 department:

8 (a) the names and addresses of all of the person's agents operating within this state; and

9 (b) the location of each of the person's distribution houses or offices, sales houses or offices, and other
10 places of business within this state.

11 ~~(6)~~(8) If any application of this section is held invalid, the application to other situations or persons is
12 not affected."

13
14 **NEW SECTION. Section 18. Direct payment of sales tax -- direct payment permits.** (1) The
15 department may issue direct payment permits to any person liable for the payment of more than \$500 a year
16 in sales tax. A person shall apply to the department for a permit, on forms approved by the department. By
17 applying for a direct payment permit, the applicant acknowledges that the applicant assumes all obligations to
18 pay any sales tax due under this chapter made by the applicant as a direct payment permitholder. A direct
19 payment permit may be revoked by the department at any time upon 90 days' written notice to the permitholder.
20 A permitholder may be audited by the department.

21 (2) A direct payment permitholder shall pay any sales tax authorized under this chapter directly to the
22 department. The permitholder must receive a nontaxable transaction certificate, as provided in 15-68-202, using
23 the direct payment permit as a basis for the exemption.

24
25 **Section 19.** Section 15-68-201, MCA, is amended to read:

26 **"15-68-201. Nontaxable transaction certificate -- requirements.** (1) A nontaxable transaction
27 certificate executed by a buyer or lessee must be in the possession of the seller or lessor at the time that a
28 nontaxable transaction occurs.

29 (2) A nontaxable transaction certificate must contain the information and be in the form prescribed by
30 the department.

(3) Only a buyer or lessee who has registered with the department and whose seller's ~~permit~~ registration is valid may execute a nontaxable transaction certificate.

(4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and believes in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate is considered conclusive evidence that the sale is nontaxable. If an incorrect claim was made with the intent to evade the payment of the sales tax, the purchaser is subject to the penalty provided in 15-68-410. If an incorrect claim was made in error, the purchaser is subject to payment of the sales tax or use tax."

Section 20. Section 15-68-202, MCA, is amended to read:

"15-68-202. Nontaxable transaction certificate -- form. (1) The department shall provide for a uniform nontaxable transaction certificate. An electronic or digitally usable version of a nontaxable transaction certificate may also be provided. A purchaser shall use the certificate when purchasing goods or services for resale or for other nontaxable transactions.

(2) At a minimum, the certificate must provide:

(a) ~~the~~ a unique identification number of the seller's permit issued to the purchaser as provided in 15-68-404;

(b) ~~the general character of property or service sold by the purchaser in the regular course of business;~~ nature of the exemption, such as the fact that:

~~(c)(i)~~ (i) the property or service is purchased for resale;

(ii) the property or service is purchased for manufacturing;

(iii) the purchaser is authorized to make direct payments; or

(iv) the purchaser is an entity exempt from payment of sales tax;

~~(d)(c)~~ (c) the name and address of the purchaser; and

~~(e)(d)~~ (d) if it is a paper certificate, a signature line for the purchaser.

(3) The department shall adopt rules to provide procedures for application for and provision of a certificate to a person engaging in business within this state ~~for renting accommodations and campgrounds prior to June 1, 2003, [the applicability date of this section] and renting vehicles prior to July 1, 2003.~~ The rules adopted by the department must ensure that each person that is engaging in business within this state ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the~~

applicability date of this section]; and that has applied in a timely fashion is issued a certificate for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the applicability date of this section]."

Section 21. Section 15-68-206, MCA, is amended to read:

"15-68-206. Exemption -- government agencies -- utility services. (1) All sales by or uses by the United States or an agency or instrumentality of the United States or of this state, a political subdivision of this state, an Indian tribe, or a foreign government are exempt from the sales tax and use tax.

(2) The sale of natural gas, water, electricity, telecommunications services, refuse collection, or other utility services, whether or not provided by a government agency, are not subject to the sales tax and use tax."

NEW SECTION. Section 22. Exemption -- food products. (1) Except as provided in subsection (2), the sale or use of food and food ingredients is exempt from the sales tax and use tax.

(2) The sale of prepared food and food sold through vending machines is taxable, but prepared food offered or delivered as part of a residential living arrangement and consumed by an individual that is party to the arrangement or by patients of a health care facility is exempt from the sales tax and use tax.

NEW SECTION. Section 23. Exemption -- medicine, drugs, and certain devices. The following are exempt from the sales tax and use tax:

(1) prescription drugs, over-the-counter drugs, durable medical equipment, and mobility-enhancing equipment; and

(2) insulin, oxygen, and therapeutic and prosthetic devices.

NEW SECTION. Section 24. Exemption -- motor fuel. (1) The sale and use of gasoline, ethanol blended for fuel, and special fuel, including natural gas or propane, upon which tax has been paid or will be paid under Title 15, chapter 70, are exempt from the sales tax and use tax.

(2) The sale and use of special fuel that is exempt from taxation under Title 15, chapter 70, part 3, are exempt from the sales tax and use tax.

NEW SECTION. Section 25. Exemption -- insurance premiums. The premiums of an insurance

company, a health service corporation, a health maintenance organization, or a fraternal benefit society or of a producer of the company, corporation, organization, or society are exempt from the sales tax.

NEW SECTION. Section 26. Exemption -- dividends and interest. The following are exempt from the sales tax:

- (1) interest on money loaned or deposited;
- (2) dividends or interest from stocks, bonds, or securities;
- (3) proceeds from the sale of stocks, bonds, or securities; and
- (4) commissions or fees derived from the business of buying, selling, or promoting any stock, bond, or security.

Section 27. Section 15-68-207, MCA, is amended to read:

"15-68-207. Exemption -- isolated or occasional sale or lease of property. The isolated or occasional sale or lease of property by a person that is not regularly engaged in or that does not claim to be engaged in the business of selling or leasing the same or a similar property is exempt from the sales tax and use tax. Occasional sales include sales that are occasional but not continuous and that are made for the purpose of fundraising by nonprofit organizations, including but not limited to youth clubs, service clubs, and fraternal organizations."

NEW SECTION. Section 28. Exemption -- personal effects. The use by an individual of personal or household effects brought into the state for the establishment by the individual of an initial residence within this state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use while temporarily within this state are exempt from the use tax.

NEW SECTION. Section 29. Exemption -- feed -- fertilizers. The sale or use of the following when used in the course of an agricultural business is exempt from the sales tax and use tax:

- (1) feed for livestock;
- (2) semen, ova, and embryos used in animal husbandry;
- (3) seeds, roots, and bulbs;
- (4) soil conditioners and fertilizers;

(5) insecticides, insects used to control weeds or the population of other insects, fungicides, weedicides, and herbicides; and

(6) water for commercial irrigation.

NEW SECTION. Section 30. Exemption -- agricultural products -- livestock feeding. (1) (a) The sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper, or nonprofit marketing association is exempt from the sales tax.

(b) A person engaged in the business of buying and selling wool or mohair or of buying and selling livestock on the person's own account and without the services of a broker, auctioneer, or other agent is considered a producer for the purposes of subsection (1)(a).

(2) Sales from feeding, pasturing, penning, handling, or training livestock prior to sale are exempt from the sales tax.

NEW SECTION. Section 31. Exemption -- minerals -- exceptions. (1) The sale or lease of interests in minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

(2) Except as provided in subsections (5) and (6), the sale or use of a mineral, as defined in 15-38-103, is exempt from the sales tax and use tax.

(3) Minerals used by the producer of the minerals for purposes of exploring for, producing, or transporting minerals are exempt from the sales tax and use tax, except that the exemption does not include refined petroleum products.

(4) The sale or use of platinum and palladium, whenever refined and preserved in coins, ingots, bars, or other similar forms, is exempt from the sales tax and use tax.

(5) Minerals used as or integrated into jewelry, art, or sculpture or used as a decorative embellishment or adornment, either in their own right, in combination with other property, or after being refined, reduced, polished, cut, faceted, or otherwise processed, are not included in the exemption provided in this section.

(6) Minerals that are used for producing energy or that are used for conversion into energy are subject to the sales tax or use tax unless the energy is produced or converted for resale as a form of energy.

NEW SECTION. Section 32. Exemption -- certain chemicals, reagents, and substances. (1) The sale or use by a person of any chemical, reagent, or other substance that is normally used or consumed in the

1 processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility, or in acidizing oil wells is exempt
2 from the sales tax and use tax.

3 (2) The sale or use of explosives, blasting material, or dynamite is not exempt from the sales tax and
4 use tax.

5
6 **NEW SECTION. Section 33. Nontaxability -- sale to miner or manufacturer.** (1) The sale of property
7 to a purchaser engaged in the business of mining or manufacturing is nontaxable if:

8 (a) the purchaser has an nontaxable transaction certificate; and

9 (b) (i) the purchaser incorporates the property as an ingredient or component part of the product in the
10 business of mining or manufacturing; or

11 (ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned
12 in place, in accordance with state regulations, when production of the mineral from a mine or wellhead
13 permanently ceases.

14 (2) For the purposes of this section, electrical energy or electricity used or consumed by electrolytic
15 reduction used in the reduction or refinement of ores is considered a component part of the product.

16
17 **NEW SECTION. Section 34. Nontaxability -- sale or lease of real property or improvements and**
18 **lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

19 (b) The lease or rental of a mobile home for a period of 1 month or more is nontaxable.

20 (2) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or
21 rented dwelling, house, mobile home, cabin, condominium, or apartment is nontaxable.

22
23 **NEW SECTION. Section 35. Nontaxability -- transactions in interstate commerce -- certain**
24 **property used in interstate commerce.** The following are nontaxable:

25 (1) a transaction in interstate commerce to the extent that the imposition of the sales tax or use tax
26 would be unlawful under the United States constitution;

27 (2) transmitting messages or conversations by radio when the transmissions originate from a point
28 outside this state and are received at a point within this state; and

29 (3) the sale of radio or television broadcast time if the advertising message is supplied by or on behalf
30 of a national or regional seller or an advertiser that does not have its principal place of business within this state

or that is not incorporated under the laws of this state.

NEW SECTION. Section 36. Nontaxability -- sale of tangible personal property for leasing. The

sale of tangible personal property, other than furniture or appliances, is nontaxable if:

(1) the sale is made to a purchaser that has a nontaxable transaction certificate;

(2) the purchaser is engaged in a business deriving more than 50% of its receipts from selling or leasing property of the type leased; and

(3) the purchaser does not use the property in any manner, other than holding it for sale or lease or selling or leasing it, either by itself or in combination with other property, in the ordinary course of business.

Section 37. Section 15-68-401, MCA, is amended to read:

"15-68-401. Seller's permit registration. (1) A person that wishes to engage in business within this state that is subject to this chapter shall ~~obtain file with the department an application for a seller's permit registration~~ before engaging in business within this state.

(2) Registration may be directly with the department or through the multistate central registration system as provided in the agreement. Sellers registered through the multistate central registration system agree to collect and remit sales taxes and use taxes for taxable Montana sales and comply with audit and compliance provisions established through the agreement.

~~(2)~~(3) Upon an applicant's compliance with this chapter, the department shall issue to the applicant a separate, numbered seller's permit registration for each location in which the applicant maintains an office or other place of business within Montana. A permit registration is valid until revoked or suspended but is not assignable. A permit registration is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit registration must be conspicuously displayed at all times at the place for which it is issued.

~~(3)~~(4) The department shall adopt rules to provide procedures for application for a seller's registration and a provision of a seller's permit to a person for registering sellers engaging in business within this state that is subject to this chapter ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003~~ [the applicability date of this section]. The rules adopted by the department must ensure that each person engaging in business within this state ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003,~~ [the applicability date of this section] has the

~~opportunity to be registered is issued a seller's permit for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the applicability date of this section]. The department may adopt rules providing for seasonal permits registration."~~

Section 38. Section 15-68-402, MCA, is amended to read:

"15-68-402. Permit application Application for seller's registration -- requirements -- place of business -- form. (1) (a) A person that wishes to engage in the business of making retail sales or providing services in Montana that are subject to this chapter shall file with the department an application for a permit seller's registration. If the person has more than one location in which the person maintains an office or other place of business, an application may include multiple locations.

(b) An applicant who does not maintain an office or other place of business and who moves from place to place is considered to have only one place of business and shall attach the permit seller's registration to the applicant's cart, stand, truck, or other merchandising device.

(c) A vending machine operator who has more than one vending machine location is considered to have only one place of business for purposes of this section.

(2) Each person or class of persons required to file a return under this chapter, other than persons with direct payment permits and certified service providers, is required to file an application for a permit seller's registration.

(3) ~~Each~~ An application for a permit seller's registration ~~must~~ may be ~~on a~~ either in electronic or paper form and must be prescribed by the department, ~~and~~ The application must meet the requirements of the multistate central registration system under the agreement even if the applicant intends to make local retail sales only in Montana. The form must set forth the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information that the department may require. The application must be filed by the owner if the owner is a natural person or by a person authorized to sign the application if the owner is a corporation, partnership, limited liability company, or some other business entity."

Section 39. Section 15-68-405, MCA, is amended to read:

"15-68-405. Revocation or suspension of permit seller's registration -- appeal. (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit seller's registration held by a person that fails to comply with the provisions of this chapter.

(2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant to 15-1-211.

(3) If a permit seller's registration is revoked, the department may not issue a new permit registration except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of this chapter. The department may require security in addition to that authorized by 15-68-512 in an amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new permit registration to the applicant.

(4) A person aggrieved by the department's final decision to revoke a permit seller's registration, as provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days after the date on which the department issued its final decision."

Section 40. Section 15-68-501, MCA, is amended to read:

"15-68-501. Liability for payment of tax -- security for retailer without place of business -- penalty.

(1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the department.

(2) A retailer that does not maintain an office or other place of business within this state is liable for the sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as provided in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise provided in this chapter, the retailer is liable for the taxes upon all property sold and services provided in this state in the same manner as a retailer who maintains an office or other place of business within this state. The seller's permit registration provided for in 15-68-401 may be canceled at any time if the department considers the security inadequate or believes that the taxes can be collected more effectively in another manner.

(3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit orders for, or deliver any property or services within Montana unless the principal, employer, or retailer possesses a seller's permit registration issued by the department. If an agent, canvasser, or employee violates the provisions of this chapter, the person is subject to a fine of not more than \$100 for each separate transaction or event."

Section 41. Section 15-68-502, MCA, is amended to read:

"15-68-502. Returns -- payment -- authority of department. (1) ~~Except as provided in subsection (2),~~

~~on or before the last day of the month following the calendar quarter in which the transaction subject to the tax imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the preceding quarter must be filed with the department. Each person engaged in business within this state or using property or services within this state that are subject to tax under this chapter shall file a return. A person making retail sales at two or more places of business shall file a separate return for each separate place of business. Sellers that are registered under the agreement and that use either a certified automated system or a certified service provider, as defined in the agreement in [section 47], are subject to the reporting and payment provisions of subsection (2) of this section. A person who has been issued a seasonal seller's registration shall file a return and pay the tax on the date or dates set by the department. All other sellers are subject to the reporting and payment provisions of subsection (3).~~

(2) (a) On or before the 20th day of each month, a return, in a form adopted by the department in conformance with the agreement, with a remittance of the tax owed for the preceding month, must be filed with the department. The filing and the remittance may be done electronically.

(b) The seller and any agent of the seller, for the purposes of reporting or paying the sales tax or use tax, are subject to the audit and accountability provisions of the agreement.

~~(2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the date or dates set by the department.~~

(3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

(i) a retailer required to collect the tax; ~~and~~

(ii) a purchaser with a direct payment permit; and

~~(ii)(iii)~~ (iii) a person that:

(A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or use tax; and

(B) has not paid the tax to a retailer required to pay the tax.

(b) A return must be filed with and payment must be received by the department on or before the 20th day of each month for taxes owed for sales occurring during the preceding month. A seller that has a tax liability that averages less than \$100 a month may report and pay the tax on a quarterly basis and shall file the return with payment received by the department before the 20th day of the month after the end of the quarter.

~~(b)(c)~~ (c) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall keep records, render statements, make returns, and comply with the provisions of this chapter and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department. The department shall comply with the provisions of the agreement in determining reports and records management requirements in reference to sellers that are registered under the agreement.

(b) For the purpose of determining compliance with the provisions of this chapter, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

- (i) require the attendance of a person having knowledge or information relevant to a return;
- (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
- (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;
- (iv) take testimony on matters material to the determination; and
- (v) administer oaths or affirmations.

(5) Pursuant to rules established by the department, returns may be computer-generated and electronically filed."

Section 42. Section 15-68-505, MCA, is amended to read:

"15-68-505. Credit for taxes paid on worthless accounts -- taxes paid if account collected. (1)

Sales ~~taxes~~ tax paid by a person filing a return under 15-68-502 on sales found to be worthless and actually deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

(2) Bad debts may be deducted within 12 months after the month in which the bad debt has been charged off for federal income tax purposes. "Charged off for federal income tax purposes" includes the charging off of unpaid balances due on accounts as uncollectible or declaring as uncollectible such unpaid balance due on accounts in the case of a seller who is not required to file federal income tax returns.

(3) If an account is subsequently collected, the sales tax must be paid on the amount collected.

(4) A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable sales within a 12-month period defined by that bad debt.

(5) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and any other charges and second to the price of the property or service and sales tax on the property or service, proportionally.

(6) If filing responsibilities have been assumed by a certified service provider, the certified service provider may claim any bad debt allowance on behalf of the seller.

(7) If the books and records of the seller claiming the bad debt allowance support an allocation of the bad debts among several states, the bad debts may be allocated among those states."

Section 43. Section 15-68-510, MCA, is amended to read:

"15-68-510. Vendor allowance. (1) (a) A person filing a timely return under 15-68-502 may claim a ~~quarterly~~ vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable to the state, not to exceed \$350 a month for persons filing on a monthly basis ~~\$1,000 a quarter~~.

~~(2)~~(b) The allowance may be deducted on the return.

~~(3)~~(c) A person that files a return or payment after the due date for the return or payment may not claim a vendor allowance.

(2) In lieu of the vendor allowance provided in subsection (1), certified service providers must receive a monetary allowance determined as provided in the agreement and the sellers using the certified service providers may not receive a vendor allowance. The vendor allowance must be funded entirely from sales tax proceeds collected by the sellers using the certified service providers.

(3) In addition to the vendor allowance provided in subsection (1), a registered seller using a certified automated system must receive a percentage of the tax determined to be payable to the state. The percentage must be determined as provided in the agreement."

Section 44. Section 15-68-801, MCA, is amended to read:

"15-68-801. Administration -- rules. (1) The department shall:

~~(1)~~(a) administer and enforce the provisions of this chapter;

~~(2)~~(b) cause to be prepared and distributed forms and information that may be necessary to administer

the provisions of this chapter; and

~~(3)(c)~~ adopt rules that may be necessary or appropriate to administer and enforce the provisions of this chapter.

(2) In administering the provisions of this chapter, the department shall, when applicable and not in conflict with Montana law, follow the provisions of the Streamlined Sales and Use Tax Agreement adopted pursuant to [sections 46 through 53]. The department shall report to the revenue and transportation interim committee, provided for in 5-5-227, on:

(a) the operation of the Streamlined Sales and Use Tax Agreement and the benefits and costs to the state of its participation; and

(b) changes to the Streamlined Sales and Use Tax Agreement that require changes in Montana law for compliance with the agreement."

Section 45. Section 15-68-820, MCA, is amended to read:

"15-68-820. Sales tax and use tax proceeds. (1) All money collected under this chapter must be deposited by the department in a special revenue account.

(2) The money in the special revenue account must be appropriated in the amount necessary for the:

(a) elementary BASE funding program as provided in 20-9-331;

(b) high school BASE funding program as provided in 20-9-333; and

(c) final 5 years of declining reimbursements to local governments for the rate reduction in class eight business property under 15-1-111, which was administered through withholding of state payments of the 40 mills levied pursuant to former 20-9-360.

(3) The following percentage of money collected under this chapter and deposited in the special revenue account must be used for the following purposes or programs:

(a) 4.7% in the fiscal year ending June 30, 2006, and 4.35% in each succeeding year to an account to the credit of the department of public health and human services for use by that department in providing services to older Montanans, either directly or through area agencies on aging, including but not limited to services identified under 52-3-504, in-home services, home-based and community-based services, ombudsman services, upgrades and enhancements to Montana's senior citizen centers, senior corps programs such as foster grandparents, the retired and senior volunteer program, and senior companions, medicaid coverage, and a prescription drug analysis program. In each fiscal year, in-home services, home-based and community-based

1 services, ombudsman services, and upgrades and enhancements to Montana's senior citizen centers must be
2 funded at a minimum amount of \$500,000, and the senior corps programs must be funded at minimum amount
3 of \$600,000.

4 (b) 2.23% for the fiscal year ending June 30, 2006, and 2.17% for each succeeding year to the
5 commissioner of higher education to be used for Montana higher education grants administered under Title 20,
6 chapter 26;

7 (c) 2.23% for the fiscal year ending June 30, 2006, and 2.17% in each succeeding year to the older
8 Montanans trust fund account established in [section 67];

9 (d) 4.79% for the fiscal year ending June 30, 2006, and 4.93% in each succeeding year must be
10 deposited in the state treasury to the credit of the department of public health and human services for the
11 treatment, rehabilitation, and prevention of alcoholism and chemical dependency;

12 (e) 13.33% for the fiscal year ending June 30, 2007, and in each succeeding year that amount
13 transferred to the general fund to offset the statutory appropriation to the incentive credit share pool for the K-12
14 statewide health insurance program under [section 3(2), House Bill No. 124];

15 (f) 1.81% for the fiscal year ending June 30, 2006, and 3.37% for each succeeding year transferred to
16 the general fund to fund the health and medicaid initiatives account for credits for small employer health
17 insurance premiums paid under [House Bill No. 200]; and

18 (g) 3.02% for the fiscal year ending June 30, 2006, and 1.46% for each succeeding year to the general
19 fund to the credit of the department of revenue to offset the administration of Title 15, chapter 68.

20 (4) The balance after the funding required by subsections (2) and (3) must be transferred into the
21 general fund."

22
23 NEW SECTION. Section 46. Uniform sales and use tax administration. [Sections 46 through 53]
24 may be cited as the "Uniform Sales and Use Tax Administration Act".

25
26 NEW SECTION. Section 47. Definitions. As used in [sections 46 through 53], the following definitions
27 apply:

28 (1) "Agreement" means the Streamlined Sales and Use Tax Agreement.

29 (2) "Certified automated system" means software certified jointly by the states that are signatories to
30 the agreement to calculate the tax imposed by each jurisdiction on a transaction, to determine the amount of tax

1 to remit to the appropriate state, and to maintain a record of the transaction.

2 (3) "Certified service provider" means an agent certified jointly by the states that are signatories to the
3 agreement to perform all of the seller's sales tax functions.

4 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited
5 liability partnership, corporation, or any other legal entity.

6 (5) "Sales tax" means the tax levied under 15-68-102.

7 (6) "Seller" means a person making sales, leases, or rentals of personal property.

8 (7) "State" means any state of the United States and the District of Columbia.

9 (8) "Use tax" means the tax levied under 15-68-102.

10
11 **NEW SECTION. Section 48. Authority to enter agreement.** (1) The department is authorized and
12 directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax
13 administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of
14 commerce. In furtherance of the agreement, the department is authorized to act jointly with other states that
15 signatories to of the agreement to establish standards for certification of certified service providers and a certified
16 automated system and to establish performance standards for multistate sellers through a multistate central
17 registration system.

18 (2) The department is further authorized to take other actions reasonably required to implement the
19 provisions of [sections 46 through 53]. Other actions authorized by this section include but are not limited to the
20 adoption of rules and the joint procurement, with other signatory states, of goods and services in furtherance
21 of the agreement.

22 (3) The department or the department's designee is authorized to represent this state before the other
23 states that are signatories to the agreement.

24
25 **NEW SECTION. Section 49. Relationship to state law.** A provision of the agreement, in whole or in
26 part, does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state
27 does not amend or modify any law of this state. Implementation of any condition of the agreement within this
28 state, whether adopted before, at, or after this state becomes a signatory to the agreement, must be by the
29 action of this state.

1 **NEW SECTION. Section 50. Agreement requirements.** The department may not enter into the
2 agreement unless the agreement requires each state to abide by the following requirements:

3 (1) The agreement must set restrictions to achieve, over time, more uniform rates in Montana through
4 the following:

5 (a) limiting the number of state rates;

6 (b) limiting the application of maximums on the amount of state tax that is due on a transaction;

7 (c) limiting the application of thresholds on the application of state tax.

8 (2) The agreement must establish uniform standards for the following:

9 (a) the sourcing of transactions to taxing jurisdictions;

10 (b) the administration of exempt sales;

11 (c) the allowances that a seller may take for bad debts;

12 (d) sales tax and use tax returns and remittances.

13 (3) The agreement must require states to develop and adopt uniform definitions of sales tax and use
14 tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with
15 the uniform definitions.

16 (4) The agreement must provide a central, electronic registration system that allows a seller to register
17 to collect and remit sales taxes and use taxes for all signatory states.

18 (5) The agreement must provide that registration with the multistate central registration system and the
19 collection of sales taxes and use taxes in the signatory states will not be used as a factor in determining whether
20 the seller has nexus with a state for any tax.

21 (6) The agreement must provide for reduction of the burdens of complying with local sales taxes and
22 use taxes through the following:

23 (a) restricting variances between the state and local tax bases;

24 (b) requiring states to administer any sales taxes and use taxes levied by local jurisdictions within the
25 state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds
26 to, or be subject to independent audits from local taxing jurisdictions;

27 (c) restricting the frequency of changes in the local sales tax and use tax rates and setting effective
28 dates for the application of local jurisdictional boundary changes to local sales taxes and use taxes;

29 (d) providing notice of changes in local sales tax and use tax rates and of changes in the boundaries
30 of local taxing jurisdictions.

1 (7) The agreement must outline any monetary allowances that are to be provided by the states to sellers
2 or certified service providers.

3 (8) The agreement must require each state to certify compliance with the terms of the agreement prior
4 to becoming a signatory and to maintain compliance, under the laws of the state, with all provisions of the
5 agreement while a signatory.

6 (9) The agreement must require each state to adopt a uniform policy for certified service providers that
7 protects the privacy of consumers and maintains the confidentiality of tax information.

8 (10) The agreement must provide for the appointment of an advisory council of private sector
9 representatives and an advisory council of representatives of states that are not signatory states to consult with
10 in the administration of the agreement.

11
12 **NEW SECTION. Section 51. Cooperating sovereigns.** The agreement is an accord among individual
13 cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism
14 among the signatory states to establish and maintain a cooperative, simplified system for the application and
15 administration of sales taxes and use taxes under the adopted law of each state.

16
17 **NEW SECTION. Section 52. Limited binding and beneficial effect.** (1) The agreement binds and
18 inures only to the benefit of this state and the other signatory states. No person, other than a signatory state, is
19 an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law
20 of this state and the other signatory states and not by the terms of the agreement.

21 (2) Consistent with subsection (1), no person has any cause of action or defense under the agreement
22 or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under
23 any provision of law, any action or inaction by any department, agency, or other instrumentality of this state or
24 any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

25 (3) A law of this state or the application of a law of this state may not be declared invalid as to any
26 person or circumstance on the ground that the provision or application is inconsistent with the agreement.

27
28 **NEW SECTION. Section 53. Seller and third-party liability.** (1) (a) A certified service provider is the
29 agent of a seller, with whom the certified service provider has contracted for the collection and remittance of
30 sales taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax

1 due each signatory state on all sales transactions that it processes for the seller, except as set out in this section.

2 (b) A seller that contracts with a certified service provider is not liable to the state for sales tax or use
3 tax due on transactions processed by the certified service provider unless the seller misrepresented the type
4 of items that it sells or committed fraud. In the absence of probable cause to believe that the seller has
5 committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions
6 processed by the certified service provider.

7 (c) A seller is subject to audit for transactions not processed by the certified service provider. The
8 signatory states acting jointly may perform a system check of the seller and review the seller's procedures to
9 determine if the certified service provider's system is functioning properly and the extent to which the seller's
10 transactions are being processed by the certified service provider.

11 (2) A person that provides a certified automated system is responsible for the proper functioning of that
12 system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified
13 automated system. A seller that uses a certified automated system remains responsible and is liable to the state
14 for reporting and remitting tax.

15 (3) A seller that has a proprietary system for determining the amount of tax due on transactions and that
16 has signed an agreement establishing a performance standard for that system is liable for the failure of the
17 system to meet the performance standard.

18
19 ~~Section 54. Section 17-3-213, MCA, is amended to read:~~

20 ~~"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in~~
21 ~~federal law. (1) The board of county commissioners in each county shall decide among payment options~~
22 ~~provided in subsections (2) through (4), as provided in Public Law 106-393, to determine how the forest reserve~~
23 ~~funds and Public Law 106-393 funds apportioned to each county must be distributed by the county treasurer~~
24 ~~pursuant to this section.~~

25 ~~(2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived~~
26 ~~from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as~~
27 ~~provided in subsection (5).~~

28 ~~(3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under~~
29 ~~Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be~~
30 ~~designated by the county for distribution as provided in subsection (5).~~

~~———— (b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in accordance with Public Law 106-393.~~

~~———— (4) If a county's full payment is less than \$100,000, the county may elect to distribute up to 100% of the payment as provided in subsection (5).~~

~~———— (5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be distributed as follows:~~

~~———— (a) to the general road fund, 66 2/3% of the amount designated;~~

~~———— (b) to the following countywide school levies, 33 1/3% of the amount designated:~~

~~———— (i) county equalization for elementary schools provided for in 20-9-331;~~

~~———— (ii) county equalization for high schools provided for in 20-9-333;~~

~~———— (iii)(i) the county transportation fund provided for in 20-10-146; and~~

~~———— (iv)(ii) the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

~~———— (6) The apportionment of money to the funds provided for under subsection (5)(b) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (5)(b).~~

~~———— (7) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection (5)(b) for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."~~

~~———— **Section 55.** Section 20-5-323, MCA, is amended to read:~~

~~———— **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.~~

~~———— (2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.~~

~~———— (3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:~~

~~———— (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;~~

~~———— (b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306(10)(9), received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student; and~~

~~———— (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.~~

~~———— (4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:~~

~~———— (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;~~

~~———— (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;~~

~~———— (c) an order issued under Title 40, chapter 4, part 2; or~~

~~———— (d) out-of-state placement by a state agency.~~

~~———— (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.~~

~~———— (6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 25 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."~~

~~———— **Section 56.** Section 20-5-324, MCA, is amended to read:~~

~~———— **"20-5-324. Tuition report and payment provisions -- exemption.** (1) At the close of the school term of each school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:~~

~~———— (a) the name and district of residence of each child who is attending a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(b), (1)(d), or~~

1 ~~(1)(e);~~

2 ~~—— (b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);~~

3 ~~—— (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of~~

4 ~~20-5-323, and the tuition cost for each reported child;~~

5 ~~—— (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident~~
6 ~~students attending public schools out of state; and~~

7 ~~—— (e) the names, schools of attendance, and amount of tuition to be paid by the district for resident~~
8 ~~students attending day-treatment programs under approved individualized education programs at private,~~
9 ~~nonsectarian schools.~~

10 ~~—— (2) The county superintendent shall send, as soon as practicable, the reported information to the county~~
11 ~~superintendent of the county in which a reported child resides.~~

12 ~~—— (3) Before July 30, the county superintendent shall report the information in subsections (1)(d) and (1)(e)~~
13 ~~to the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the district~~
14 ~~would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference~~
15 ~~between the actual amount paid and the amount calculated in this subsection.~~

16 ~~—— (4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district~~
17 ~~placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.~~

18 ~~—— (5) (a) When a child has approval to attend a school outside the child's district of residence under the~~
19 ~~provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has approval to attend a day-treatment~~
20 ~~program under an approved individualized education program at a private, nonsectarian school located in or~~
21 ~~outside of the child's district of residence, the district of residence shall finance the tuition amount from the district~~
22 ~~tuition fund and any transportation amount from the transportation fund.~~

23 ~~—— (b) When a child has approval to attend a school outside the child's district of residence under the~~
24 ~~provisions of 20-5-321(1)(c), the parent or guardian of the child shall finance the tuition and transportation~~
25 ~~amount.~~

26 ~~—— (6) When a child has mandatory approval under the provisions of 20-5-321(1)(d) or (1)(e), the tuition~~
27 ~~and transportation obligation for an elementary school child attending a school outside of the child's district of~~
28 ~~residence must be financed by the basic county tax for elementary BASE funding program equalization, as~~
29 ~~provided in 20-9-331, for the child's county of residence or for a high school child attending a school outside the~~
30 ~~district of residence by the basic county tax for high school BASE funding program for equalization, as provided~~

1 in 20-9-333, for the child's county of residence:

2 ~~——— (7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay at least~~
3 ~~one-half of any tuition and transportation obligation established under this section out of the money realized to~~
4 ~~date from the appropriate elementary or high school county equalization fund provided for in 20-9-335 or from~~
5 ~~the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by June~~
6 ~~15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school~~
7 ~~district that is entitled to tuition and transportation. Except as provided in subsection (9), the county treasurer~~
8 ~~shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts~~
9 ~~must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation~~
10 ~~receipts to the transportation fund of a school district entitled to a transportation payment:~~

11 ~~——— (8) The superintendent of public instruction shall reimburse the district of residence for the per-ANB~~
12 ~~entitlement determined in subsection (3):~~

13 ~~——— (9) (a) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year~~
14 ~~that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund~~
15 ~~and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for~~
16 ~~which the tuition was received:~~

17 ~~——— (b) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a~~
18 ~~disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the district~~
19 ~~miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support~~
20 ~~the costs of the program for which the tuition was received:~~

21 ~~——— (c) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts~~
22 ~~of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year~~
23 ~~in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the~~
24 ~~district general fund budget:~~

25 ~~——— (10) The provisions of this section do not apply to out-of-state placements made by a state agency~~
26 ~~pursuant to 20-7-422."~~

27
28 ~~——— **Section 57.** Section 20-6-702, MCA, is amended to read:~~

29 ~~——— **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)~~
30 ~~through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for~~

1 high-school districts.

2 ~~———(2) The number of elected trustees of the K-12 school district must be based on the classification of the~~
3 ~~attached elementary district under the provisions of 20-3-341 and 20-3-351.~~

4 ~~———(3) Calculations for the following must be made separately for the elementary school program and the~~
5 ~~high school program of a K-12 school district:~~

6 ~~———(a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in~~
7 ~~accordance with the provisions of 20-9-311;~~

8 ~~———(b) the basic county tax for elementary equalization and revenue for the elementary BASE funding~~
9 ~~program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county~~
10 ~~tax for high school equalization and revenue for the high school BASE funding program for the district must be~~
11 ~~determined in accordance with the provisions of 20-9-333; and~~

12 ~~———(c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be~~
13 ~~calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget~~
14 ~~levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program~~
15 ~~amounts for elementary school programs to the BASE funding program amounts for high school programs:~~

16 ~~———(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school~~
17 ~~district must be calculated and funded as a high school district retirement obligation under the provisions of~~
18 ~~20-9-501.~~

19 ~~———(5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for~~
20 ~~any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and~~
21 ~~programs of the district.~~

22 ~~———(6) Tuition for attendance in the K-12 school district must be determined separately for high school~~
23 ~~pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual~~
24 ~~expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary~~
25 ~~and high school programs in the appropriate funds of each district in the year prior to the attachment of the~~
26 ~~districts."~~

27
28 ~~———Section 58. Section 20-7-102, MCA, is amended to read:~~

29 ~~———"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each~~
30 ~~middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school~~

~~operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of every school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.~~

~~——— (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.~~

~~——— (3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).~~

~~——— (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306(10)(c)(i)(9)(c)(i)."~~

~~——— **Section 59.** Section 20-9-212, MCA, is amended to read:~~

~~——— **"20-9-212. Duties of county treasurer.** The county treasurer of each county:~~

~~——— (1) must receive and shall hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts that are entitled to a portion of the money according to the apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:~~

~~——— (a) the basic county tax revenue sources for elementary equalization;~~

~~——— (b) the basic county tax revenue sources for high school equalization;~~

~~——— (c) the county tax in support of the transportation schedules;~~

~~——— (d) the county tax in support of the elementary and high school district retirement obligations; and~~

~~——— (e) any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners.~~

~~——— (2) whenever requested, shall notify the county superintendent and the superintendent of public instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1) and the amount of any other school money subject to apportionment and apportion the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent or the~~

1 superintendent of public instruction;

2 ~~——— (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;~~

3 ~~——— (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district~~
4 ~~school money;~~

5 ~~——— (5) must receive all revenue collected by and for each district and shall deposit these receipts in the~~
6 ~~fund designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent~~
7 ~~school taxes must be credited to the same fund and district for which the original taxes were levied.~~

8 ~~——— (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county~~
9 ~~treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3~~
10 ~~months after that date until the end of the school fiscal year;~~

11 ~~——— (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and~~
12 ~~revenue anticipation notes as provided in Title 7, chapter 6, part 11;~~

13 ~~——— (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there~~
14 ~~is insufficient money available in all funds of the district to make payment of the warrant. Redemption of~~
15 ~~registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.~~

16 ~~——— (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days~~
17 ~~of the direction;~~

18 ~~——— (10) each month, shall give to the trustees of each district an itemized report for each fund maintained~~
19 ~~by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of~~
20 ~~revenue received, and the cash balance;~~

21 ~~——— (11) shall remit promptly to the department of revenue receipts for the county tax for a~~
22 ~~vocational-technical program within a unit of the university system when levied by the board of county~~
23 ~~commissioners under the provisions of 20-25-439;~~

24 ~~——— (12) shall invest the money received from the basic county taxes for elementary and high school~~
25 ~~equalization, the county levy in support of the elementary and high school district retirement obligations, and the~~
26 ~~county levy in support of the transportation schedules within 3 working days of receipt. The money must be~~
27 ~~invested until the working day before it is required to be distributed to school districts within the county or~~
28 ~~remitted to the state. Permissible investments are specified in 20-9-213(4). All investment income must be~~
29 ~~deposited, and credited proportionately, in the funds established to account for the taxes received for the~~
30 ~~purposes specified in subsections (1)(a) through (1)(d).~~

1 ~~_____ (13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county~~
2 ~~equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned and~~
3 ~~excluding any amount required for tuition paid under the provisions of 20-5-324(6) or (7), in repayment of the~~
4 ~~state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be~~
5 ~~used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

6
7 ~~_____ **Section 60.** Section 20-9-306, MCA, is amended to read:~~

8 ~~_____ **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following~~
9 ~~definitions apply:~~

10 ~~_____ (1) "BASE" means base amount for school equity.~~

11 ~~_____ (2) "BASE aid" means:~~

12 ~~_____ (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the~~
13 ~~general fund budget of a district; and~~

14 ~~_____ (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,~~
15 ~~up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the~~
16 ~~special education allowable cost payment.~~

17 ~~_____ (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the~~
18 ~~basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost~~
19 ~~payment.~~

20 ~~_____ (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may~~
21 ~~be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through~~
22 ~~20-9-369.~~

23 ~~_____ (5)(4) "BASE funding program" means the state program for the equitable distribution of the state's~~
24 ~~share of the cost of Montana's basic system of public elementary schools and high schools, through county~~
25 ~~equalization aid collected from the sales tax and use tax under 15-68-820 and distributed as provided in~~
26 ~~20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of~~
27 ~~districts and special education allowable cost payments as provided in 20-9-321.~~

28 ~~_____ (6)(5) "Basic entitlement" means:~~

29 ~~_____ (a) \$220,646 for each high school district;~~

30 ~~_____ (b) \$19,859 for each elementary school district or K-12 district elementary program without an approved~~

1 and accredited junior high school or middle school; and

2 ~~—— (c) the prorated entitlement for each elementary school district or K-12 district elementary program with~~
3 ~~an approved and accredited junior high school or middle school, calculated as follows:~~

4 ~~—— (i) \$19,859 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten~~
5 ~~through grade 8; plus~~

6 ~~—— (ii) \$220,646 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade~~
7 ~~8;~~

8 ~~—— (7)(6) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB~~
9 ~~entitlement for the general fund budget of a district and funded with state and county equalization aid:~~

10 ~~—— (8)(7) "Maximum general fund budget" means a district's general fund budget amount calculated from~~
11 ~~the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:~~

12 ~~—— (a) 175% of special education allowable cost payments; or~~

13 ~~—— (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures~~
14 ~~to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a~~
15 ~~maximum allowable ratio of 200%.~~

16 ~~—— (9)(8) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted~~
17 ~~that is above the BASE budget and below the maximum general fund budget for a district.~~

18 ~~—— (10)(9) "Total per-ANB entitlement" means the district entitlement resulting from the following~~
19 ~~calculations:~~

20 ~~—— (a) for a high school district or a K-12 district high school program, a maximum rate of \$5,371 for the~~
21 ~~first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800~~
22 ~~ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;~~

23 ~~—— (b) for an elementary school district or a K-12 district elementary program without an approved and~~
24 ~~accredited junior high school or middle school, a maximum rate of \$4,031 for the first ANB is decreased at the~~
25 ~~rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess~~
26 ~~of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and~~

27 ~~—— (c) for an elementary school district or a K-12 district elementary program with an approved and~~
28 ~~accredited junior high school or middle school, the sum of:~~

29 ~~—— (i) a maximum rate of \$4,031 for the first ANB for kindergarten through grade 6 is decreased at the rate~~
30 ~~of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving~~

1 the same amount of entitlement as the 1,000th ANB; and

2 ~~—— (ii) a maximum rate of \$5,371 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents~~
3 ~~per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800~~
4 ~~receiving the same amount of entitlement as the 800th ANB."~~

5
6 ~~—— **Section 61.** Section 20-9-307, MCA, is amended to read:~~

7 ~~—— **"20-9-307. BASE funding program -- district general fund budget -- funding sources.** (1) A basic~~
8 ~~system of free quality public elementary schools and high schools must be established and maintained~~
9 ~~throughout the state of Montana to provide equality of educational opportunity to all school-age children:~~

10 ~~—— (2) The state shall in an equitable manner fund and distribute to the school districts the state's share~~
11 ~~of the cost of the basic school system through BASE aid to support the BASE funding program in the manner~~
12 ~~established in this title:~~

13 ~~—— (3) The budgetary vehicle for achieving the financing system established in subsection (2) is the general~~
14 ~~fund budget of the school district. The purpose of the district general fund budget is to finance those instructional,~~
15 ~~administrative, facility maintenance, and other operational costs of a district not financed by other funds~~
16 ~~established for special purposes in this title:~~

17 ~~—— (4) The BASE funding program for the districts in the state is financed by a combination of the following~~
18 ~~sources:~~

19 ~~—— (a) county equalization money from collections of the sales and use tax distributed under 15-68-820,~~
20 ~~as provided in 20-9-331 and 20-9-333;~~

21 ~~—— (b) state equalization aid, as provided in 20-9-343, including guaranteed tax base aid for eligible districts~~
22 ~~as provided in 20-9-366 through 20-9-369;~~

23 ~~—— (c) appropriations for special education;~~

24 ~~—— (d) a district levy, as provided in 20-9-303, for support of a school not approved as an isolated school~~
25 ~~under the provisions of 20-9-302; and~~

26 ~~—— (e) district levies or other revenue, as provided by 20-9-308 and 20-9-353."~~

27
28 ~~—— **Section 62.** Section 20-9-308, MCA, is amended to read:~~

29 ~~—— **"20-9-308. BASE budgets and maximum general fund budgets.** (1) The trustees of a district shall~~
30 ~~adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as~~

provided in subsection (3), does not exceed the maximum general fund budget established for the district.

~~———— (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.~~

~~———— (3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the 5-year period. A school district whose adopted general fund budget for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

~~———— (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~———— (B) in the second year, 25% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~———— (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~———— (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

~~———— (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

~~———— (ii) The trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:~~

~~———— (A) the adopted budget for the previous year; or~~

~~———— (B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.~~

~~_____ (b) The trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.~~

~~_____ (4) The BASE budget for the district must be financed by the following sources of revenue:~~

~~_____ (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;~~

~~_____ (b) county sales tax and use tax equalization aid, as provided in 20-9-331 and 20-9-333;~~

~~_____ (c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;~~

~~_____ (d) payments in support of special education programs under the provisions of 20-9-321; and~~

~~_____ (e) nonlevy revenue, as provided in 20-9-141; and~~

~~_____ (f) a BASE budget levy on the taxable value of all property within the district.~~

~~_____ (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141."~~

Section 54. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax Sales tax funding for elementary equalization and other revenue REVENUE for county equalization of elementary BASE funding program. (1) (A) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204; There must be appropriated from the special revenue account established for the collection of sales tax and use tax in 15-68-820 sufficient funds for FOR the purposes of elementary equalization and state BASE funding program support; The revenue collected from this levy funds THE REVENUE UNDER THIS SECTION must be apportioned to the support of the elementary BASE funding programs of the school districts in the county, and to the state general fund in the following manner:

~~_____ (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.~~

~~_____ (b) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~

~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.~~

(B) IF OTHER REVENUE PRESCRIBED BY THIS SECTION PRODUCES MORE REVENUE THAN IS REQUIRED TO REPAY A STATE ADVANCE, IF ANY, FOR COUNTY EQUALIZATION, THE COUNTY TREASURER SHALL REMIT THE SURPLUS FUNDS TO THE DEPARTMENT OF REVENUE, AS PROVIDED IN 15-1-504, FOR DEPOSIT TO THE STATE GENERAL FUND IMMEDIATELY UPON OCCURRENCE OF A SURPLUS BALANCE AND EACH SUBSEQUENT MONTH, WITH ANY FINAL REMITTANCE DUE NO LATER THAN JUNE 20 OF THE FISCAL YEAR FOR WHICH THE STATE ADVANCE WAS RECEIVED.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213; AND

~~(f) gross proceeds taxes from coal under 15-23-703; and~~

~~———(g) oil and natural gas production taxes.~~

(F) ANY MONEY APPROPRIATED BY THE LEGISLATURE THAT IS DESIGNATED AS COUNTY ELEMENTARY EQUALIZATION AID."

Section 55. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic county tax Sales tax funding for high school equalization and other revenue

REVENUE for county equalization of high school BASE funding program. (1) (A) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204. There must be appropriated from the special revenue account established for the collection of sales tax and use tax in 15-68-820 sufficient funds for FOR the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy funds THE REVENUE COLLECTED UNDER THIS SECTION must be apportioned to the support of the BASE funding programs of high school districts in the county, and to the state general fund in the following manner:

——— (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.

——— (b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(B) IF REVENUE PRESCRIBED BY THIS SECTION PRODUCES MORE REVENUE THAN IS REQUIRED TO REPAY A STATE ADVANCE, IF ANY, FOR COUNTY EQUALIZATION, THE COUNTY TREASURER SHALL REMIT THE SURPLUS FUNDS TO THE DEPARTMENT OF REVENUE, AS PROVIDED IN 15-1-504, FOR DEPOSIT TO THE STATE GENERAL FUND IMMEDIATELY UPON OCCURRENCE OF A SURPLUS BALANCE AND EACH SUBSEQUENT MONTH, WITH ANY FINAL REMITTANCE DUE NO LATER THAN JUNE 20 OF THE FISCAL YEAR FOR WHICH THE STATE ADVANCE WAS MADE.

(2) The revenue ~~realized from the county's portion of the levy prescribed in this section and the revenue~~ from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213; AND

1 ~~(c) gross proceeds taxes from coal under 15-23-703; and~~

2 ~~—— (d) oil and natural gas production taxes.~~

3 (C) ANY MONEY APPROPRIATED BY THE LEGISLATURE THAT IS DESIGNATED AS COUNTY HIGH SCHOOL
4 EQUALIZATION AID."

5
6 ~~—— Section 65. Section 20-9-347, MCA, is amended to read:~~

7 ~~—— "20-9-347. Distribution of BASE aid and special education allowable cost payments in support~~
8 ~~of BASE funding program -- exceptions. (1) The superintendent of public instruction shall:~~

9 ~~—— (a) supply the county treasurer and the county superintendent with a monthly report of the payment of~~
10 ~~BASE aid in support of the BASE funding program of each district of the county;~~

11 ~~—— (b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that~~
12 ~~is no less than the amount anticipated to be raised for available through the elementary and high school county~~
13 ~~equalization funds as provided in 20-9-331 and 20-9-333; and~~

14 ~~—— (c) adopt rules to implement the provisions of subsection (1)(b):~~

15 ~~—— (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in~~
16 ~~20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register warrants~~
17 ~~under the provisions of 20-9-212(8):~~

18 ~~—— (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the~~
19 ~~superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed~~
20 ~~in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's~~
21 ~~warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to~~
22 ~~authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid:~~

23 ~~—— (3) The superintendent of public instruction shall:~~

24 ~~—— (a) distribute special education allowable cost payments to districts; and~~

25 ~~—— (b) supply the county treasurer and the county superintendent of schools with a report of payments for~~
26 ~~special education allowable costs to districts of the county."~~

27
28 ~~—— Section 66. Section 20-9-361, MCA, is amended to read:~~

29 ~~—— "20-9-361. County equalization revenue funds. Revenue Funds received in support of county~~
30 ~~equalization under the provisions of 20-9-331 and 20-9-333 is to must be used for county equalization aid for~~

1 ~~the public schools, as provided by law, and must be accounted for in accordance with generally accepted~~
2 ~~accounting principles."~~

3
4 **NEW SECTION. Section 56. Older Montanans trust fund account.** (1) There is an older Montanans
5 trust fund account in the special revenue fund. The account is subject to appropriation after 2011. The account
6 is established to accumulate funds to pay for anticipated public health care expenses of Montanans born during
7 the baby boom.

8 (2) Interest and income earned on the account must be deposited in the account.

9
10 **Section 57.** Section 90-6-304, MCA, is amended to read:

11 **"90-6-304. Accounts established.** (1) There is within the state agency fund type a hard-rock mining
12 impact account. Money is payable into this account from payments made by a mining developer in compliance
13 with the written guarantee from the developer to meet the increased costs of public services and facilities as
14 specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account
15 upon order of the board.

16 (2) (a) There is within the state special revenue fund a hard-rock mining impact trust account. Within
17 this trust account, there is established a reserve account not to exceed \$100,000.

18 ~~(a)~~(b) Money within the hard-rock mining impact trust account may be used:

19 (i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

20 (ii) to establish and maintain the reserve account; and

21 (iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

22 ~~(b)~~(c) Money within the hard-rock mining impact trust reserve account may be used for the
23 administrative and operating expenses of the board if:

24 (i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the
25 administrative and operating expenses of the board; or

26 (ii) the use of the reserve account revenue is necessary to allow the board to meet its quasi-judicial
27 responsibilities under 90-6-307, 90-6-311, or 90-6-403~~(3)~~(2).

28 (3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117.
29 After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then
30 establishing and maintaining the reserve account in the amount of \$100,000, as provided in subsection (2) of

1 this section, the remaining money must be segregated within the account by county of origin. The state treasurer
2 shall draw warrants from this account upon order of the board."

3
4 **Section 58.** Section 90-6-305, MCA, is amended to read:

5 **"90-6-305. Hard-rock mining impact board -- general powers.** (1) The board may:

6 (a) retain professional staff, including its administrative staff, and retain consultants and advisers,
7 notwithstanding the provisions of 2-15-121;

8 (b) adopt rules governing its proceedings, determinations, and administration of this part;

9 (c) make payments to local government units from money paid to the hard-rock mining impact account
10 as provided in 90-6-307;

11 (d) make determinations as provided in 90-6-307, 90-6-311, and 90-6-403~~(3)~~(2); and

12 (e) accept grants and other funds to be used in carrying out this part.

13 (2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and
14 determinations of the board."

15
16 **Section 59.** Section 90-6-309, MCA, is amended to read:

17 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence
18 operation is granted by the appropriate governmental agency, and upon request of the governing body of a
19 county in which a facility is to be located, a person intending to construct or locate a large-scale mineral
20 development in this state shall prepay property taxes as specified in the impact plan. ~~This prepayment shall~~
21 ~~exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies~~
22 ~~for the school BASE funding program established in 20-9-331 and 20-9-333.~~

23 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
24 established in subsection (1) at one time. Upon request of the governing body of an affected local government
25 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

26 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
27 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as
28 needed for expenditures created by the impacts of the large-scale mineral development.

29 (4) When the mineral development facilities are completed and assessed by the department of revenue,
30 they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except

1 that in each year after the start of production, the local government unit that received a property tax prepayment
2 shall provide for repayment of prepaid property taxes in accordance with subsection (5).

3 (5) A local government unit that received all or a portion of the property tax prepayment under this
4 section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not,
5 however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited
6 to the productive life of the mining operation."

7
8 **Section 60.** Section 90-6-403, MCA, is amended to read:

9 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
10 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to
11 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected
12 local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this
13 section, the increase in taxable valuation of the mineral development that occurs after the issuance and
14 validation of a permit under 82-4-335 is not subject to the usual application of county and school district property
15 tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in
16 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the
17 application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable
18 valuation allocated to the local government unit is considered newly taxable property in the recipient local
19 government unit as provided in 15-10-420.

20 ~~(2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains~~
21 ~~subject to the statewide mill levies and basic county levies for elementary and high school BASE funding~~
22 ~~programs as provided in 20-9-331 and 20-9-333.~~

23 ~~(3)(2)~~ The provisions of subsection (1) remain in effect until the large-scale mineral development ceases
24 operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."

25
26 **NEW SECTION. Section 61. Repealer.** Sections 15-10-107, 20-9-360, and 20-25-423, MCA, are
27 repealed.

28
29 **NEW SECTION. Section 62. Codification instruction.** (1) [Section 12] is intended to be codified as
30 an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 12].

(2) [Sections 16, 18, 22 through 26, and 28 through 36] are intended to be codified as an integral part of Title 15, chapter 68, and the provisions of Title 15, chapter 68, apply to [sections 16, 18, 22 through 26, and 28 through 36].

(3) [Sections 46 through 53] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 46 through 53].

(4) [Section ~~67~~ 56] is intended to be codified as an integral part of Title 53, and the provisions of Title 53, apply to [section ~~67~~ 56].

NEW SECTION. Section 63. Effective dates. [This act] is effective on January 1, 2006.

NEW SECTION. Section 64. Applicability. (1) [Sections 14 through 45] apply to sales of tangible personal property after December 31, 2005.

(2) [Sections 4, 5, and 12] apply to tax years beginning after December 31, 2005.

- END -